

# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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September 6, 2012

## TECHNICAL STAFF REPORT

Petition Accepted on May 15, 2012 Planning Board Meeting of September 20, 2012 Zoning Board Hearing to be scheduled

Case No./Petitioner: ZB 1102M – Kellogg CCP, LLC, c/o Preston Scheffenacker Properties, Inc.

Location: First Election District

West side of Coca Cola Drive approximately 1,375 feet northeast of MD 100. Northeast corner of the Park Circle Drive intersection with Coca Cola Drive. Tax Map 38, Grid 20, Parcel 1003, Parcels A and B; (Currently 7301 and 7341 Coca Cola Drive), and Tax Map 38, Grid 20, Parcel 761, Parcel M-1; (Currently

6800 Park Circle Drive) (the "Property")

Area of Property: 122.1 acres

Current Zoning: TOD, with a Documented Site Plan

Proposal: Amendment to Documented Site Plan including several amendments to

**Developer Proffers** 

## Department of Planning and Zoning Recommendation:

**APPROVAL** 

#### I. PRIOR APPROVAL AND DESCRIPTION OF AMENDMENT PROPOSALS

The original case which rezoned the Property from the M-2 District to the TOD District was called Preston Capital Management and was Zoning Board Case No. ZB 1086M. This case was approved on September 13, 2010 based upon a finding of mistake in the 2004 Comprehensive Zoning Plan and a conclusion that the TOD District is the appropriate zoning for the Property.

In addition to the approval of the Zoning Map Amendment to the TOD District, ZB 1086M included the approval of two other elements which are the principal subjects of this new Zoning Board case; a Documented Site Plan and a related list of development-defining delineations and limitations noted within the ZB 1086M Decision and Order under the heading "Oxford Square Developer Proffers"

The actual plan portion of the Documented Site Plan for ZB 1086M, consisting of two sheets, was submitted in conformance with the plan requirements for a property larger than 50 acres, and as such depicts a very generalized concept for the development rather than details.

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## I. PRIOR APPROVAL AND DESCRIPTION OF AMENDMENT PROPOSALS

Sheet 1 generally shows the boundaries of the Property, the site characteristics including topography and environmentally sensitive areas, information on adjacent properties, and site analysis data.

Sheet 2 shows some of the same information as Sheet 1, and in addition shows the Development Area, Preservation/Easement Area, access points, access to the MARC station, floodplain and steep slopes, a schematic drainage plan, and also has a Land Use Analysis table. This Land Use Analysis Table specifies that the Development Area is 80.0 acres, the Preservation/Easement Area is 42.4 acres, and the intended Land Uses within the Development Area are Mixed-use Residential (0 – 1,400 Dwelling Units), Mixed-use Commercial, and Civic Building & Recreation Area (together, the "Original DSP"). A copy of the Original DSP is Exhibit B in the Petitioner's application materials.

According to the Decision and Order for ZB 1086M, the Oxford Square Developer Proffers were incorporated into and became part of the approved ZB 1086M site plan documentation as an amendment accepted by the ZB 1086M petitioner. This is a list of ten items certain specifying development matters including the maximum number of dwelling units, several issues related to establishing a public school site, the provision of access to the nearby MARC station, a development staging plan, and a commitment to the general form of a Conceptual Plan that was part of the petition.

For the full details on all of the Oxford Square Developer Proffers, please refer to Attachment A – Approved Developer Proffers (the "Original Proffers").

The Petitioner requests approval of certain amendments to the Original DSP and the Original Proffers. The proposed amendments to the Original DSP are depicted on a new, two-sheet plan which is submitted as Exhibit C in the Petitioner's application materials (the "Proposed New DSP").

The proposed amendments to the Original Proffers are listed by reference on Page 2 of the Supplement to Petition to Amend the Oxford Square Documented Site Plan (the "Supplement").

• The principal proposed amendments to the Original DSP are as follows:

Sheet 1 would be amended to show that the Parcel Q portion of the original site is subdivided into a 90.87 acre Parcel A, and a 20.20 acre Parcel B which is for the public school site. The Site Analysis Data is updated to reflect more current conditions. The other information on this sheet remains the same.

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## I. PRIOR APPROVAL AND DESCRIPTION OF AMENDMENT PROPOSALS

Sheet 2 would be amended to also show Parcel A and Parcel B. The Site Analysis Data is updated to reflect current conditions. The schematic drainage plan is amended to reflect a new street system design and other updated development design features. The Land Use Analysis Table is amended to specify that the Development Area is 80.088 acres, the Preservation/Easement Area is 42.017 acres, and the intended Land Uses within the Development Area are Mixed-use Residential (0-1,776 Dwelling Units), Mixed-use Commercial, Public Schools, and Civic Building & Recreation Area. The other information on this sheet fundamentally remains the same.

#### • The Petitioner requests the following amendments to the Original Proffers:

Proffer I would be amended to increase the maximum residential development from 954 dwelling units to 1,776 dwelling units.

Proffer VII would be amended to reduce the percentage of the maximum number of residential units that can be constructed in the initial stage of development prior to commencing a proportional share of commercial construction based on the ratio of 200 square feet of commercial space per dwelling unit from 50 percent to 27 percent.

Proffer VII would be also be amended to indicate the maximum number of residential units as 1,776 dwelling units.

Proffer VII would be also be amended to incorporate a new staging table which was submitted as Exhibit D in the petition. This new staging table adds a new Stage 4 to the current staging plan that would include 822 maximum dwelling units, retains the ratio of 200 square feet of commercial space per dwelling unit, and adds 164,400 square feet of minimum commercial square footage.

Proffer VIII would be amended to refer to a new conceptual plan dated February 24, 2012 that was submitted as Exhibit E in the Petitioner's materials (the "Proposed Conceptual Plan").

- To see the proposed amendments to the Original Proffers in a format similar to that used for a Zoning Regulation Amendment, please refer to Attachment B Proposed Amendments to Developer Proffers.
- The Proposed Conceptual Plan shows that much thinking about the ultimate development design has taken place since the original approval of ZB 1086M almost two years ago, because it has updated new information. For example, it depicts the development concept for the middle school site and an adjoining Neighborhood Community Center in some detail.

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# I. PRIOR APPROVAL AND DESCRIPTION OF AMENDMENT PROPOSALS

This plan also indicates a number of parcel development areas, color coded by principal land use types, arranged in a partial grid street system. A small red-coded retail parcel would be in the eastern area of the site near Coca Cola Drive, two gray-coded larger office parcels are along the south side of the site, and the bulk of the development is eight yellow-coded residential parcels. The street system is reasonably well-defined, public outdoor spaces are shown, as well as a use called "The Barn", which the Petitioner explained is intended to be for community cultural events and performances.

- The Proposed Conceptual Plan also includes conceptual land use building types/designs as pictures and photographs. As addressed in the Technical Staff report for ZRA 140, the Zoning Regulation Amendment proposal that is associated with this Zoning Board case, the Petitioner requests revisions to the TOD District regulations to allow a relatively small proportion of Single-family Detached Dwellings in Large TOD Projects like Oxford Square. So the conceptual residential building types include townhouses, as well as triplex, walkup apartment, and podium and wrapper apartment buildings.
- The Petitioner submitted a considerable amount of documentation as justification for the requested amendments to the Original DSP and the Original Proffers, and as the relevance of all this documentation is well covered in the Supplement starting on Page 2, it is not repeated in detail in this Technical Staff Report.

However, a concise summary justification to describe the overall reasoning behind the request in on this same Page 2, where it states that a review of the information and recommendations in the Maryland Department of Planning PlanMaryland document [submitted as the very large Exhibit F]:

"...confirmed the Petitioner's personal conviction that it would be irresponsible to develop Oxford Square with a maximum of only 954 residential dwelling units. Such a low density development would 1) significantly underutilize the property's development capacity; 2) fail to properly utilize the significant public investment already made in the MARC commuter rail system; and 3) miss a valuable opportunity to prevent urban sprawl and the continued degradation of the Chesapeake Bay"

- The Petitioner included evaluations on the petition based on the General Plan 2000 because at the time of its submittal, the process for the PlanHoward 2030 General Plan was still ongoing. A review of those General Plan 2000 evaluations is still helpful, as many of the General Plan 2000 policies remain relevant.
- Also evaluated as justification for the petition is the "Market Analysis and Strategic Implementation Analysis US Route 1 and Snowden River Pkway/Dobbin Rd Corridors", also known as the "RCLCO Market Analysis", which is submitted as Exhibit J.

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# I. PRIOR APPROVAL AND DESCRIPTION OF AMENDMENT PROPOSALS

The Property is designated as being within the Route 1 Corridor area. Among other justification statements, the Petitioner notes that "In its executive summary, the RCLCO Market Analysis concludes that 'Route 1 has the potential to grow into a corridor that can accommodate higher-density residential (especially at MARC station areas)...".

## II. ZONING HISTORY

## A. Subject Property and Adjacent Properties

- In 1948, the first Zoning Regulations zoned the land between the B&O Railroad tracks and the Howard County/Anne Arundel County boundary as Commercial B, in the area south of Hanover Road and north of what is now MD 100.
- The 1954 Comprehensive Zoning Plan rezoned this same area to M-2 (Manufacturing 2). Although the mapped M-2 designation remained the same M-2, the 1961 Comprehensive Zoning Plan changed the title of the district to Manufacturing; Heavy.
- This M-2 zoning for the Property and the adjacent properties was retained in the 1977, 1985, 1993 and 2004 Comprehensive Zoning Plans.
- The Property was rezoned from M-2 to TOD, with a Documented Site Plan, on September 13, 2010 with the approval of ZB 1086M.

## III. BACKGROUND INFORMATION

# A. Site Description

The Parcel M-1 portion of the Property on the east side of Coca-Cola Drive is undeveloped and is predominantly wooded floodplain area and a pond. The access to what is now Parcel A and Parcel B is a wide entrance with a median located on the west side of the Coca-Cola Drive intersection with Park Circle Drive.

The most recent aerial photograph shows that this entrance has a decorative fence and gates and landscaping that was not there when ZB 1086M was under consideration. Once through this entrance, a paved road generally 45 feet wide extends almost four-tenths of a mile into Parcel A, in a gradual curve to the north. This road was once intended to be a public road but the public right-of-way was abandoned. Beyond the terminus of this road, a one-lane gravel drive continues to the northeast, down to a wetland and floodplain area.

To each side of the road, Parcel A is predominantly an open, previously graded area, except for patches of evergreen trees adjacent to the road, along the south lot line, and in other spots. The most expansive open area is the area to the northeast of the road, which includes the area for Parcel B.

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#### III. BACKGROUND INFORMATION

Understandably, these previously graded areas are generally level, and are the highest areas in terms of elevation. As noted above, the north of Parcel A slopes down a great deal to the environmental features along the north lot line, and in the south there is a more gradual slope down to the south property line.

## **B.** Vicinal Properties

- Adjoining the north side of Parcel A and Parcel B is Parcel I, which is zoned M-2. This parcel is improved with a large warehouse development, the access to which is well to the northeast.
- To the east of Parcel A and Parcel B are Parcel E-1 and Parcel D-1. These parcels are zoned M-2 and are improved with large warehouse/industrial buildings that, because of the significant rise in elevation in the area to the northeast of the Property, are quite prominent when viewed from the Property.
- Most of the land to the south and southwest of Parcel A is within Parcel 5 and Parcel 4, which are both zoned M-2 and are predominantly wooded areas owned by the State Highway Administration. An unused railroad spur runs through the northern portions of these two parcels. Also to the south and southwest, beyond Parcel 5 and Parcel 4 is MD 100, and there are two bridges, one over Deep Run and one over the railroad right-of-way. The traffic over these bridges is easily seen from the Property.
- To the southwest of the Property, between the unused railroad spur and the MD 100 bridge over the railroad right-of-way, are three parcels which have frontage on and access to O'Conner Drive. [Please note: the name of this road shows up in County records as both O'Conner or O'Connor and designated as both Drive or Lane.]

O'Conner Drive actually begins in Anne Arundel County as it begins to the north of MD 103/Dorsey Road, but once it crosses Deep Run it becomes a Howard County Road. It continues to the north parallel to the railroad right-of-way, and passes under the MD 100 bridge, to reach the three parcels. All three are zoned M-2. The middle parcel is used for a single-family detached dwelling. The other two are larger and are both used for contractor businesses.

Across the railroad right-of-way to the northwest of the Property, the area is mostly zoned M-2 and is developed with multiple industrial buildings and uses. Also on the opposite side of the railroad, well beyond the developable portion of Parcel A and Parcel B to the northwest, is the Harwood Park residential neighborhood which is zoned R-12.

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#### III. BACKGROUND INFORMATION

#### C. Roads

Coca Cola Drive between MD 100 and Park Circle Drive begins with two northbound and two southbound lanes, but at the Park Circle Drive intersection the northbound lanes become one through-lane and one right-turn lane. North of Park Circle Drive the road eventually transitions to two lanes. There is approximately 50 feet of paving within an approximate 100 foot wide right-of-way.

• The estimated sight distance from the current location of the Park Circle Drive entrance is greater than 1,000 feet to the northeast and the southwest.

Precise sight distance measurements may only be determined through a detailed sight distance analysis, but sight distance should not be an issue at this intersection because it has a traffic signal and was designed to be a public road intersection.

There is no traffic volume data available for Coca Cola Drive.

# D. Water and Sewer Service

• The Property is in the Metropolitan District and is within the Existing Service Area according to the Geographic Information System Maps.

The development on the Property would be served by public water and sewer facilities.

## E. General Plan

■ The Property is designated as a Growth and Revitalization place type and Route 1 Corridor on the *PlanHOWARD 2030* maps.

## F. Agency Comments

- See attached comments on the proposal from the following agencies:
  - 1. State Highway Administration
  - 2. Bureau of Environmental Health
- The following agencies had no objections to the proposal:
  - 1. Department of Fire and Rescue Services
  - 2. Department of Inspections, Licenses and Permits

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#### III. BACKGROUND INFORMATION

## G. Adequate Public Facilities Ordinance

The petition is subject to the Adequate Public Facilities Ordinance. Site Development Plans for the proposed TOD development are subject to the requirement to pass the test for adequate road facilities and the residential development component would need to pass the test for adequate school facilities.

#### IV. EVALUATIONS AND CONCLUSIONS

As noted in Section 100.G.2.f. of the Zoning Regulations, for a rezoning with site plan documentation, "...any significant changes [to the Documented Site Plan] must be approved by the Zoning Board in accordance with the procedures for the original Zoning Board petition. Zoning Board review shall be limited to consideration of the proposed changes to the site plan(s)." The evaluation criteria for such a consideration are in Section 100.G.2.d. of the Zoning Regulations.

## A. Evaluation of Site Plan Documentation Factors in Section 100.G.2.d.

1. Most of the land uses of the surrounding areas currently exist. The warehouse/industrial building development to the west across the railroad right-of-way, and to the north and northeast of the Property are unlikely to change to other potential uses. Except for the three smaller properties on O'Conner Drive, the area to the south of the Property is wooded and environmentally sensitive land owned by the State which separates the Property from MD 100.

As depicted in the Proposed Conceptual Plan, the revised TOD development on the Property can be compatible with the surrounding uses. There are good existing buffers to the north and south, and acceptable buffers can be established to the west and east. The closest M-2 uses to the east are warehouses rather than something more incompatible like a heavy manufacturing use, and the TOD office uses are concentrated in the south area of the project.

The residential uses within the development are concentrated mostly in the center and the west of the project, and there are opportunities for increasing the buffering to the railroad, such having a parking garage on the west side of an apartment building, between the actual residences and the railroad. A TOD development in this location is compatible with the existing and potential land uses of the surrounding areas.

2. The Proposed New DSP clearly protects the environmental integrity of the Property and the adjoining areas in the location and design of site improvements. The northern area of Parcel A, Parcel B and the entire Parcel M-1 would be within Preservation/Easement Areas, which in addition to the other smaller areas would total 42.017 acres of preserved environmental areas.

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## IV. EVALUATIONS AND CONCLUSIONS

3. In its approval of ZB 1086M, the Zoning Board found that the plan complied with the Section 100.G.2.d.(3) criteria concerning safe road access. The proposed road access points have not changed, and the roads have not changed, so a new evaluation of Section 100.G.2.d.(3) is not necessary.

4. Similarly to the evaluation of ZRA 140, this proposal is in harmony with the Zoning goal in General Plan Policy 6.1 to 'reduce competition for land resources by promoting more compact development in appropriate growth and revitalization areas." The Property is in an area designated for Growth and Revitalization. Concentrating residential density in such an area allows for significant growth to occur using a relatively moderate amount of land area.

In addition, the proposal is in harmony with the goal of General Plan Policy 5.4 regarding Residential Expansion and Preservation of Land for Employment and Industrial Use to "Accommodate residential development in key nodes in the Route 1 Corridor so that it does not erode opportunities to preserve or redevelop employment and industrial areas."

#### V. RECOMMENDATION APPROVAL

For the reasons noted above, the Department of Planning and Zoning recommends that the request to amend the Original DSP and to amend the Original Proffers, as described above, be APPROVED.

Marsha S. McLaughlin, Director Date

MM/JRL/jrl

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.

#### ATTACHMENT A – APPROVED DEVELOPER PROFFERS

- I. Maximum permitted residential development is up to 954 dwelling units.
- II. The Petitioner shall donate up to 20.2 acres of land for a public school site acceptable to the Howard County Board of Education (BOE). Before the first residential unit approved under this decision may be constructed, the donation of the land for the public school site must be accepted by the BOE. If the BOE decides not to accept the donation, the Petitioner will have to seek additional approval from the Zoning Board regarding any residential development on the subject property.
- III. If the BOE accepts the public school site donation, the Petitioner shall, at the commencement of school construction, donate \$4,000,000 to the Howard County Public School System in accordance with the April 28, 2010 letter of intent submitted from David P. Scheffenacker, President of Preston Capital Management, Inc. to Joel Gallihue, Manager of School Planning for the Howard County Public School System on behalf of the BOE (Applicant's Exhibit 10).
- IV. If the BOE accepts the public school site donation, the Petitioner shall install infrastructure to serve the school site to include:
  - a. Rough grading to within 1 foot of final grade; and
  - b. Construction of roads, sewer, water, street trees, street lights and sidewalks for the school property in accordance with applicable Howard County and State requirements.

The Petitioner will diligently pursue the required approvals and implementation of the rough grading and infrastructure construction within a timeframe specified by the BOE.

- V. The Petitioner will contribute a minimum of \$300 per dwelling unit at the time of building permit issuance toward a future capital project to be utilized by Howard County for nutrient reduction strategies within Howard County. Should Howard County develop regulations establishing different contribution levels, Petitioner will be subject to the contribution level in force at the time of building permit application, or \$300 per dwelling unit, whichever is higher.
- VI. In conjunction with the TOD plan, the Petitioner shall provide shuttle service to and from the subject property and the Dorsey MARC Station. The number and frequency of daily shuttle trips shall be based on the Dorsey MARC Station train schedule, as it exists today or is modified in the future but the minimum requirement and the intent of the Board is that a shuttle should be provided for every train departing the Dorsey MARC Station. Based on the current Dorsey MARC train schedule, the shuttle service would be provided as follows:

A.M. Shuttle time –	Southbound Train-	Northbound Train-
Arrival at	Depart	Depart
MARC Station	MARC Station	MARC Station
5:15 am	5:29 am	
5:45 am	5:54 am	
6:15 am	6:34 am	
6:45 am	6:59 am	
7:15 am	7:40 am	7:24 am; 7:49 am
8:15 am	8:33 am	8:45 am

P.M. Shuttle time –	Southbound Train-	Northbound Train-	
Arrival at	Depart	Depart	
MARC Station	MARC Station	MARC Station	
3:30 pm	3:48 pm		
4:30 pm		4:52 pm	
5:15 pm	5:33 pm	5:23 pm	
5:45 pm	6:28 pm	6:01 pm; 6:30 pm	
7:15 pm		7:27 pm	
8:00 pm		8:19 pm	

The timing of providing the shuttle service in relation to the amount of development on the subject property and the possible provision of pedestrian access from the subject property to the Dorsey MARC Station shall be as follows:

- a. If pedestrian access is provided between the subject property and the Dorsey MARC Station prior to development of the subject property, the shuttle service is not required to be operational until Stage II of development of the subject property as identified in Proffer VII below commences;
- b. If pedestrian access is not provided between the subject property and the Dorsey MARC Station, the shuttle service outlined above shall be operational at the construction of the 250<sup>th</sup> dwelling unit or the 100,000<sup>th</sup> square foot of commercial space, whichever occurs first; and
- c. Prior to the time that the shuttle service is required to be operational under Section b. above, the Petitioner shall provide a free, on-call free transport service to and from the subject property and the Dorsey MARC Station.
- VII. No more than 50% of the maximum number of permitted 954 residential dwelling units shall be constructed in the initial stage of development prior to commencing a proportional share of commercial construction based on a ratio of 200 square feet of commercial space per dwelling unit required for all three stages as provided below. Accordingly, the staging plan required is as follows:

	Stage I	Stage II	Stage III
Maximum Residential Dwelling Units	477	206	271
Minimum Commercial Square Footage per Residential Dwelling Unit	200	200	200
Minimum Commercial Square Footage/Planned Commercial Square Footage (No Maximum On Commercial)	<b>95,400</b> / 299,800	<b>41,200</b> / 130,500	<b>54,200</b> / 223,000

Residential development shall not be allowed to proceed to a subsequent stage of development provided in the table above unless the minimum levels of commercial development have been completed for the preceding stage. In addition, this staging requirement only restricts residential development in relation to a required ratio of minimum commercial development; there is no limit imposed on the amount or timing of commercial development by this staging requirement.

VIII. The Petitioner commits to the general form and residential density of the current conceptual plan attached to the Petitioner's July 8, 2010 submission although it is included for illustrative purposes only. The plan will require flexibility to respond to market conditions, however the form of the plan will contain the following elements:

- a. Organized street framework with rational blocks tied to the major access points;
- b. Open space dispersed throughout the community;
- c. Perimeter buffers:
- d. Conservation areas for protection of environmentally sensitive areas;
- e. An interconnected, pedestrian oriented community with sidewalks and trails; and
- f. Transit connection- The Petitioner will diligently pursue pedestrian access to the Dorsey MARC Station.
- IX. The Petitioner will create a community-wide management entity and associated covenants, conditions and restrictions for the maintenance of the following items, including but not limited to: open space, private streets, private storm water management facilities and private shuttle service. The Petitioner shall subsidize any operating deficiencies of the private shuttle service until the management entity takes over management of the shuttle service.
- X. The Petitioner shall commit to the Howard County Green Neighborhood Initiatives including implementation of water conservation measures.

#### ATTACHMENT B – PROPOSED AMENDMENTS TO DEVELOPER PROFFERS

- I. Maximum permitted residential development is up to [[954]] 1,776 dwelling units.
- II. The Petitioner shall donate up to 20.2 acres of land for a public school site acceptable to the Howard County Board of Education (BOE). Before the first residential unit approved under this decision may be constructed, the donation of the land for the public school site must be accepted by the BOE. If the BOE decides not to accept the donation, the Petitioner will have to seek additional approval from the Zoning Board regarding any residential development on the subject property.
- III. If the BOE accepts the public school site donation, the Petitioner shall, at the commencement of school construction, donate \$4,000,000 to the Howard County Public School System in accordance with the April 28, 2010 letter of intent submitted from David P. Scheffenacker, President of Preston Capital Management, Inc. to Joel Gallihue, Manager of School Planning for the Howard County Public School System on behalf of the BOE (Applicant's Exhibit 10).
- IV. If the BOE accepts the public school site donation, the Petitioner shall install infrastructure to serve the school site to include:
  - a. Rough grading to within 1 foot of final grade; and
  - b. Construction of roads, sewer, water, street trees, street lights and sidewalks for the school property in accordance with applicable Howard County and State requirements.

The Petitioner will diligently pursue the required approvals and implementation of the rough grading and infrastructure construction within a timeframe specified by the BOE.

- V. The Petitioner will contribute a minimum of \$300 per dwelling unit at the time of building permit issuance toward a future capital project to be utilized by Howard County for nutrient reduction strategies within Howard County. Should Howard County develop regulations establishing different contribution levels, Petitioner will be subject to the contribution level in force at the time of building permit application, or \$300 per dwelling unit, whichever is higher.
- VI. In conjunction with the TOD plan, the Petitioner shall provide shuttle service to and from the subject property and the Dorsey MARC Station. The number and frequency of daily shuttle trips shall be based on the Dorsey MARC Station train schedule, as it exists today or is modified in the future but the minimum requirement and the intent of the Board is that a shuttle should be provided for every train departing the Dorsey MARC Station. Based on the current Dorsey MARC train schedule, the shuttle service would be provided as follows:

A.M. Shuttle time –	Southbound Train-	Northbound Train-	
Arrival at	Depart	Depart	
MARC Station	MARC Station	MARC Station	
5:15 am	5:29 am		
5:45 am	5:54 am		
6:15 am	6:34 am		
6:45 am	6:59 am		
7:15 am	7:40 am	7:24 am; 7:49 am	
8:15 am	8:33 am	8:45 am	

P.M. Shuttle time –	Southbound Train-	Northbound Train-	
Arrival at	Depart	Depart	
MARC Station	MARC Station	MARC Station	
3:30 pm	3:48 pm		
4:30 pm		4:52 pm	
5:15 pm	5:33 pm	5:23 pm	
5:45 pm	6:28 pm	6:01 pm; 6:30 pm	
7:15 pm		7:27 pm	
8:00 pm		8:19 pm	

The timing of providing the shuttle service in relation to the amount of development on the subject property and the possible provision of pedestrian access from the subject property to the Dorsey MARC Station shall be as follows:

- a. If pedestrian access is provided between the subject property and the Dorsey MARC Station prior to development of the subject property, the shuttle service is not required to be operational until Stage II of development of the subject property as identified in Proffer VII below commences;
- b. If pedestrian access is not provided between the subject property and the Dorsey MARC Station, the shuttle service outlined above shall be operational at the construction of the 250<sup>th</sup> dwelling unit or the 100,000<sup>th</sup> square foot of commercial space, whichever occurs first; and
- c. Prior to the time that the shuttle service is required to be operational under Section b. above, the Petitioner shall provide a free, on-call free transport service to and from the subject property and the Dorsey MARC Station.

VII. No more than [[50%]] 27% of the maximum number of permitted [[954]] 1,776 residential dwelling units shall be constructed in the initial stage of development prior to commencing a proportional share of commercial construction based on a ratio of 200 square feet of commercial space per dwelling unit required for all three stages as provided below. Accordingly, the staging plan required is as follows:

	Stage I	Stage II	Stage III	STAGE IV
Maximum Residential Dwelling Units	477	206	271	822*
Minimum Commercial Square Footage per Residential Dwelling Unit	200	200	200	200
Minimum Commercial [[Square Footage/Planned Commercial Square Footage (No Maximum On Commercial)]]	95,400 [[299,800]]	41,200 [[130,500]]	54,200 [[223,000]]	164,400

\*GOVERNED BY APFO REQUIREMENTS

TOTAL MINN REQ'D COMMERCIAL = 355,200 FOR 1,776 UNITS

Residential development shall not be allowed to proceed to a subsequent stage of development provided in the table above unless the minimum levels of commercial development have been completed for the preceding stage. In addition, this staging requirement only restricts residential development in relation to a required ratio of minimum commercial development; there is no limit imposed on the amount or timing of commercial development by this staging requirement.

VIII. The Petitioner commits to the general form and residential density of the current conceptual plan attached to the Petitioner's [[July 8, 2010]] **FEBRUARY 24, 2012** submission although it is included for illustrative purposes only. The plan will require flexibility to respond to market conditions, however the form of the plan will contain the following elements:

- a. Organized street framework with rational blocks tied to the major access points;
- b. Open space dispersed throughout the community;
- c. Perimeter buffers:
- d. Conservation areas for protection of environmentally sensitive areas;
- e. An interconnected, pedestrian oriented community with sidewalks and trails; and
- f. Transit connection- The Petitioner will diligently pursue pedestrian access to the Dorsey MARC Station.
- IX. The Petitioner will create a community-wide management entity and associated covenants, conditions and restrictions for the maintenance of the following items, including but not limited to: open space, private streets, private storm water management facilities and private shuttle service. The Petitioner shall subsidize any operating deficiencies of the private shuttle service until the management entity takes over management of the shuttle service.
- X. The Petitioner shall commit to the Howard County Green Neighborhood Initiatives including implementation of water conservation measures.